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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,541	01/03/2005	Masahiro Sano	262955US0PCT	2989
22850 7590 09/26/2007 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER GRAY, JILL M	
			ART UNIT 1774	PAPER NUMBER
			NOTIFICATION DATE 09/26/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/518,541	<b>Applicant(s)</b> SANO ET AL.	
	<b>Examiner</b> Jill M. Gray	<b>Art Unit</b> 1774	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,5,8,9,12,14,15 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,8,9,12,14,15 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/29/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

The rejection of claims 1, 3-5, 8-9, 12, 14, and 18-20 under 35 U.S.C. 112, first paragraph, as set forth in the previous Office Action, is moot in view of applicants' amendments.

The rejection of claims 1, 3-5, 9, 12, and 19-20 under 35 U.S.C. 103(a) as being unpatentable over Neuhauser 3,194,732 in view of Japanese Patent Abstract 07-246234 is moot in view of applicants' amendments.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5, 8-9, 14-15, 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

More specifically, claim 5 is indefinite because the reactive organic compound is not clearly defined. In particular, the language of "wherein the reactive organic compound contains at least one compound" is indefinite because it is not clear whether said reactive compound "contains" another compound selected from those listed or alternatively, if said reactive compound is one of the compounds listed. Also, regarding claim 8, it is not clear if the reactive organic compound of the organic compound having adhesiveness (claim 5) is a lipophilic compound or if the lipophilic compound of claim 8 is in addition to the reactive organic compound and both of these components comprise

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the organic compound. Accordingly, the metes and bounds for which patent protection is being sought are not clear.

Claims 9, 14-15, 18, and 20 are indefinite for the reasons set forth above in claims 1 and 8.

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 3-5, 8-9, 12, 14-15, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Publication 0939160 (Sano).

Sano discloses a textile treatment of the type contemplated by applicants comprising a functional protein and a reactive organic compound having a reactive group. The functional protein can be a protein such as egg white of a hen, quail and goose, and the reactive organic compound can be a compound such as polyethylene glycol diacrylate or a compound having the requisite chemical formula (1), as claimed in present claims 1, 5, 8, and 15. See entire document, and in particular [0023]-[0030]. The content of the functional protein is in the range of 0.1 wt% to 10 wt% as required by present claim 3 and the functional protein is prepared by chemical processing, per claims 19-20. See [0024] and [0033]. In addition, Sano discloses processing fibers with the disclosed treatment, as required by claims 4, 9, 12, and 18. See [0056]-[0057]. While Sano discloses that the protein can be egg white protein, he does not specifically disclose that the protein can be from the eggshell membrane. In this regard, Sano discloses that suitable proteins can be found in the egg whites of a hen, quail and

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goose. These are the same types of proteins that applicants disclose in their specification as being suitable, i.e. the proteins in eggshell membranes of hens, quail and goose. Accordingly, the prior art discloses the same type of protein source as that of the instant invention. It would have been *prima facie* obvious to one having ordinary skill in the art at the time the invention was made to substitute the protein of egg whites of hens, quail or goose taught by Sano with the protein of eggshell membrane of hens, quail or goose, as contemplated by applicants, with the reasonable expectation of success of obtaining a fiber treatment that results in improved moisture absorbency of the resultant product. As to claim 14, the inclusion of a wax or silicone would have been an obvious expedient to the skilled artisan to form products having softer hand.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 3-4, 5, 8-9, 12, 14-15, and 18-20 have been considered but are moot in view of the new ground(s) of rejection.

No claims are allowed.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M. Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-Th and alternate Fridays 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jill M. Gray  
Primary Examiner  
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